## REMARKS

Claims 1-76 are pending. Claim 1 has been amended to correct a typographical error.

### *Rejection of Claims under 35 U.S.C. § 103*

Claims 1-6, 20-25. 39-44, and 58-63 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Balazinski et al., U.S. Patent Publication No. 2002/0097707 (Balazinski) in view of Hariharasubrahmanian, U.S. Patent No. 6,819,681 (Hariharasubrahmanian). Claims 7-12, 14-17, 19, 26-31, 33-36, 38, 45-50, 52-55, 57, 64-69, 71-74 and 76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Balazinski in view of Hariharasubrahmanian and further in view of Hong et al., U.S. Patent No. 6,359,894 (Hong). Claims 13, 18, 32, 37, 51, 56, 70 and 75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Balazinski in view of Hariharasubrahmanian and Hong, and further in view of Maggenti et al., U.S. Patent No. 6,477,150 (Maggenti). The applicant respectfully traverses these rejections.

The cited references fail to teach or suggest a method comprising:

> determining whether said first network element expects said second network element to send a first response to said first packet;

as required by independent claim 1, and generally required by independent claims 20, 39, and 58.

Regarding the claimed "determining whether said first network element expects said second network element to send a first response to said first packet," the Examiner refers to column 2, lines 64-67 of Hariharasubrahmanian which states:

> Systems and methods consistent with the present invention address these and other needs through mechanism that permit communication devices to predict one or more bit-fields in one or more packets before all these packets are received, thereby using their resources efficiently and permitting the devices to respond to these sets of packets before all the packets of the set have been received.

Thus, while the cited portion of Hariharasubrahmanian refers to a communications device that receives some packets predicting a response to those packets before all the packets

are received, it fails to teach or suggest the claimed operation, i.e., determining whether the sending node expects the receiving node to send a response.

In her Response to Arguments section, the Examiner further states:

The second network element anticipates the responses to the "sets of packets" sent by the first network element *if those packets require a response*; that response which it sends is the "first response" of the claim. There would be no need to respond to the packets if no response was expected by the first network element, or if the packet did not require a response. The elements may respond to the sets of packets before all the packets have been received; *being able to respond implies being able to determine the expected contents of the response.* (emphasis added)

The applicant respectfully disagrees.

First, the applicant notes that the Examiner still does not point to any explicit teaching in Hariharasubrahmanian of the claimed determining step.

Second, the applicant respectfully submits that the Examiner has mischaracterized the referenced portion of Hariharasubrahmanian. Nothing in the cited portion of Hariharasubrahmanian leads to the conclusion that Hariharasubrahmanian's receiving communication device anticipates responses upon a determination "if those packets require a response." Hariharasubrahmanian is simply silent on this issue.

Third, the Examiner's statement that "[t]here would be no need to respond to the packets if no response was expected by the first network element, or if the packet did not require a response," is not supported by the cited portions of the reference. Hariharasubrahmanian makes no teaching that only communications devices expecting responses receive such responses. Moreover, it appears that the Examiner is suggesting that since there are responses to packets, responses must be expected. If that is the case, then it is unclear why Hariharasubrahmanian would ever use (much less teach or suggest) a separate operation for determining *whether* a network element expects a first response. In other words, the Examiner seems to suggest that Hariharasubrahmanian assumes there will be a response. If that is the case, clearly no determination whether a network element expects a first response is needed by Hariharasubrahmanian.

Fourth, the Examiner's statement that "being able to respond implies being able to determine the expected contents of the response," is also not supported by

Hariharasubrahmanian. For example, the reference's background section describes situations where devices respond to a packet, but are in fact *unable* to determined expected contents. Even if the Examiner's assertion is correct that "being able to respond implies being able to determine the expected contents of the response," (and the applicant does not concede this point), it is irrelevant to a teaching of the claimed determining whether a first network element expects a first response. Determining expected contents of a response and determining whether that response is expected in the first place are clearly different operations.

Accordingly, the applicant respectfully submits that independent claims 1, 20, 39, and 58 are allowable over the cited references. Claims 2-19, 21-38, 40-57, and 59-76, depend from claims 1, 20, 39, and 58 respectively, and are allowable for at least the foregoing reasons.

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, on _____ June 7 ____, 2006.

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6/7/06

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